

## **B. REMARKS**

The Examiner is thanked for the performance of a thorough search. By this amendment, Claims 1-3 and 38-40 have been amended. No claims have been canceled or added. Hence, Claims 1-40 are pending in this application. The amendments to the claims do not add any new matter to this application. Furthermore, the amendments to the claims were made to improve the readability and clarity of the claims and not for any reason related to patentability. All issues raised in the Office Action mailed December 16, 2004 are addressed hereinafter.

## **IDS REFERENCES**

In the Office Action the Examiner noted that several references listed in the submitted IDSs cannot be located. Copies of these references are being supplied with this reply along with a copy of the corresponding PTO-1449 forms. Initialization and return of the PTO-1449 forms to Applicant is respectfully requested. If there are any remaining issues related to the IDSs, the Examiner is invited to contact the undersigned via telephone so that they may be resolved.

## **PROVISIONAL REJECTION OF CLAIMS 1-40 UNDER OBVIOUSNESS-TYPE DOUBLE PATENTING**

Claims 1-40 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 12-14 of co-pending U.S. Patent Application No. 09/863,945. A proper terminal disclaimer complying with 37 CFR 3.73(b) is filed herewith. Accordingly, reconsideration withdrawal of the provisional double patenting rejection is respectfully requested.

## REJECTION OF CLAIMS 1-40 UNDER 35 U.S.C. § 103(a)

Claims 1-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bixler et al.*, U.S. Patent No. 6,212,559 (hereinafter (“*Bixler*”) in view of admitted prior art (“*APA*”). It is respectfully submitted that Claims 1-40, as amended, are patentable over *Bixler* and *APA*, considered alone or in combination, for at least the reasons provided hereinafter.

### CLAIM 1

Claim 1, as amended, is directed to a method of defining and deploying a networked computer system and recites:

“creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language;  
based on the textual representation, generating one or more commands for one or more switch devices that are interconnected to one or more computing elements and storage devices, wherein the commands instruct the switch devices to logically connect the computing elements and storage devices into an operable computer system that conforms to the logical configuration.”

It is respectfully submitted that Claim 1 is patentable over *Bixler* and *APA* because Claim 1 recites one or more limitations that are not taught or suggested by *Bixler* and *APA*, considered alone or in combination. For example, it is respectfully submitted that *Bixler* and *APA* do not teach or suggest “creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language,” as recited in Claim 1.

Applicant fully agrees with the assertion in the Office Action that *Bixler* does not teach or suggest the aforementioned limitation. *Bixler* describes an approach for configuring a communications network of multiple interconnected computers. In *Bixler*, a network configuration is planned in simulated form through a graphical user interface. The network

configuration is represented in network programming data that is disseminated over the communications network and used to reconfigure the network. The network programming data may take any form or structure and there is no teaching or suggestion that the network programming data conforms to a structured markup language like the textual representation does in Claim 1.

The Office Action also asserted “they taught according to a graphical user interface which is an obvious variation of the graphical user interface provided by the structured markup language.” Office Action, Page 3, lines 7-8. It is respectfully presumed that what is meant by this assertion is that the Claim 1 feature “creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language” is obvious in view of *Bixler*’s description of configuring a communications network in simulated form via a graphical user interface. This is presumed because an assertion that a feature of the *Bixler* is obvious in view of a limitation in Claim 1 does not in any way support a rejection of Claim 1 over *Bixler*.

Applicant respectfully submits that even if *Bixler* teaches providing a textual representation of a logical configuration of a network computer system on a graphical user interface, the Claim 1 feature “creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language” is not rendered obvious in view of this teaching. In *Bixler*, the representations of the network configuration presented on the graphical user interface may be created using any of a myriad of computer software languages, data structures and data formats. There is no teaching or suggestion in *Bixler* of creating the representations of the network configuration presented on the graphical user interface using a structured markup language,

Furthermore, as previously mentioned herein, *Bixler* does not teach or suggest that the resulting network programming data is textual data that conforms to a markup language. It is therefore respectfully submitted that the Claim 1 feature “creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language” is not taught or suggested by *Bixler*.

As for the *APA*, there is a clear distinction between the *APA* and the approach recited in Claim 1. The *APA* describes that the Rackspace service provides for configuring a single server computer using a user interface that includes elements defined in HTML. Claim 1 recites that the textual representation created must conform to a structure markup language. While the *APA* describes that user interface elements may be implemented using a markup language, i.e., HTML, the *APA* does not teach or suggest that a textual representation of the single server computer may be created using the graphical interface. Even if the *APA* suggested that a textual representation of the single server computer could be created using the graphical interface, there is no teaching or suggestion that the textual representation conforms to a markup language.

In view of the foregoing, it is respectfully submitted that the Claim 1 recitation “creating and storing a textual representation of a logical configuration of the networked computer system, wherein the textual representation conforms to a structured markup language” is not taught or suggested by *Bixler* or *APA*, considered alone or in combination. Accordingly, it is respectfully submitted that Claim 1 is patentable over *Bixler* and *APA*.

#### CLAIMS 2-37

Claims 2-37 all depend from Claim 1 and include all of the limitations of Claim 1. It is therefore respectfully submitted that Claims 2-37 are patentable over *Bixler* and *APA* for at least the reasons set forth herein with respect to Claim 1. Furthermore, it is respectfully submitted that

Claims 2-37 recite additional limitations that independently render them patentable over *Bixler* and *APA*.

#### CLAIM 38

Claim 38 recites limitations similar to Claim 1, except in the context of a computer-readable medium. It is therefore respectfully submitted that Claim 38 is patentable over *Bixler* and *APA* for at least the reasons set forth herein with respect to Claim 1.

#### CLAIM 39

Claim 39 recites limitations similar to Claim 1, except in the context of an apparatus. It is therefore respectfully submitted that Claim 39 is patentable over *Bixler* and *APA* for at least the reasons set forth herein with respect to Claim 1.

#### CLAIM 40

Claim 40 recites limitations similar to Claim 1, except in the context of an apparatus. It is therefore respectfully submitted that Claim 40 is patentable over *Bixler* and *APA* for at least the reasons set forth herein with respect to Claim 1.

In view of the foregoing, it is respectfully submitted that Claims 1-40 are patentable over *Bixler* and *APA*. Accordingly, reconsideration and withdrawal of the rejection of Claims 1-40 under 35 U.S.C. § 103(a) as being unpatentable over *Bixler* in view of *APA* is respectfully requested.

## CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested. If there are any additional charges, please charge them to Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP



---

Edward A. Becker

Reg. No. 37,777

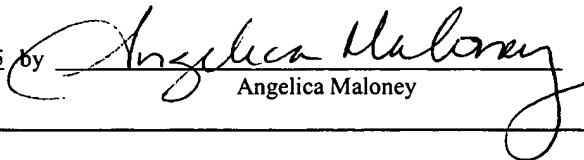
Date: **February 18, 2005**

2055 Gateway Place, Suite 550  
San Jose, CA 95110-1089  
(408) 414-1204  
Facsimile: (408) 414-1076

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop Amendment**, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on February 18, 2005 by



Angelica Maloney